

FILED

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

DYAN A. TRUESDELL,

Plaintiff,

and

JEROME ZAMOS,

Appellant,

v.

SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
partnership,

Defendant - Appellee,

and

THE HOSPITAL AND SERVICE
EMPLOYEES INTERNATIONAL UNION,
LOCAL 399,

Defendant.

No. 02-56374

D.C. No. CV-01-02337-ABC

MEMORANDUM* AND
ORDER

Appeal from the United States District Court
for the Central District of California

*/ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Audrey B. Collins, District Judge, Presiding

Submitted February 14, 2003**

Before: KLEINFELD and GRABER, Circuit Judges, and BOLTON,*** District Judge.

In a previous appeal, we remanded the award of Rule 11 sanctions for clarification in the light of Christian v. Mattel, Inc., 286 F.3d 1118 (9th Cir. 2002). Truesdell v. S. Cal. Permanente Med. Group, 293 F.3d 1146 (9th Cir. 2002). On remand, the district court confirmed that the sanctions order was based solely on the filings in this case and not on Zamos' history with Permanente. All references to that history were excised.

Zamos argues that he was entitled to another opportunity to argue all the merits of the sanctions order on remand. Neither the mandate nor due process required another hearing. A full hearing was held before the district court issued its initial Rule 11 order, and the second order relies on fewer, but the same, facts in support of the sanctions award. We already held (1) that the "complaint was sanctionable because it was both legally frivolous and factually misleading," and

** This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

*** The Honorable Susan R. Bolton, United States District Judge for the District of Arizona, sitting by designation.

(2) that the district court "did not abuse its discretion by ordering sanctions" on the ground that the complaint was misleading. Id. at 1153-54. The district court's order must be affirmed.

We also grant Permanente's opposed motion for sanctions under Federal Rule of Appellate Procedure 38, in the amount of \$3,055, payable by Zamos personally. See Scott v. Younger, 739 F.2d 1464, 1467 (9th Cir. 1984) (awarding sanctions for relitigation of issues previously decided by the court of appeals).

AFFIRMED; Jerome Zamos ORDERED to pay \$3,055 in Federal Rule of Appellate Procedure 38 sanctions to Permanente.